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Paper No. 3

THOMAS J. PERKOWSKI, ESQ., PC
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD, CT 06902

COPY MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Schmidt et al.	:	DECISION GRANTING
Application No. 10/042,755	:	PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 108-181USA000	:	

This is a decision on the petition under 37 CFR 1.10(e), filed January 17, 2003, requesting that the above-identified application be accepted and accorded a filing date of November 13, 2002.

The petition is **GRANTED**.

Applicants request the acceptance of the application with the filing date of November 13, 2002, on the basis that the application was purportedly deposited in Express Mail service (Express Mail mailing label #EL906152865US) on November 13, 2002, pursuant to the requirements of 37 CFR 1.10, and that the submission was not received by the Patent and Trademark Office.

In support, the petition is accompanied by a copy of the Express Mail mailing label, receipt no.EL906152865US, indicating a "date-in" of November 13, 2002. The same Express Mail receipt number was referred to in the copy of the transmittal letter submitted with the instant petition. Also, Petitioner has submitted a copy of a return-receipt postcard indicating receipt in the Office of Patent Cooperation Treaty ("PCT") the above-identified application.

The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the label. See MPEP §513. The date indicated on Express Mail mailing label verifies that the mailed. In view of the above, the evidence

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is convincing that the application was deposited as "Express Mail" with the US Postal Service on November 13, 2002. Accordingly, the application is accepted as filed on November 13, 2002.

Since the instant petition has been granted, no petition fee is necessary and the \$130.00 petition fee will be credited to petitioner's deposit account.

The application is being forwarded to Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-305-0014.



Derek L. Woods
Petitions Attorney
Office of Petitions